

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

PAMELA TERRY

PLAINTIFF

v.

CIVIL ACTION NO. 1:21-cv-155-TBM-RPM

**BAY ST. LOUIS-WAVELAND
SCHOOL DISTRICT**

DEFENDANT

**ORDER GRANTING WITHOUT PREJUDICE
DEFENDANT'S UNOPPOSED MOTION TO DISMISS**

This matter is before the Court on Defendant Bay St. Louis-Waveland School District's Unopposed [20] Motion to Dismiss filed on May 5, 2022. After due consideration of the record and relevant legal authority, the Court finds that the Unopposed [20] Motion to Dismiss should be granted, and that Plaintiff's claims should be dismissed without prejudice.

This action was filed on May 7, 2021, based on the separation of employment of Pamela Terry and the Bay St. Louis-Waveland School District. [1]. On January 18, 2022, Defendant filed a Motion to Dismiss based on its discovery that Plaintiff was deceased and a proper party had not been substituted for the Plaintiff. [17]. The Court denied Defendant's first Motion [17] to Dismiss because there was no evidence that Defendant had properly served the Plaintiff's estate or representative with a Suggestion of Death.

On May 5, 2022, Defendant filed the instant Unopposed Motion [20] to Dismiss for lack of Jurisdiction. During its attempt to serve the Plaintiff's estate, Defendant learned that Plaintiff was deceased on the date the Complaint was filed. [20] at 2. As set forth in the motion, "Plaintiff's

counsel . . . was in agreement on the timing of the death and stated he had no objection to the dismissal of the Complaint without prejudice based on Plaintiff's lack of standing.” [20] at 2.

It is uncontested that the Plaintiff was deceased at the time this lawsuit was filed. And the parties agree that the matter should be dismissed without prejudice. Accordingly, the Court finds that the Unopposed Motion to Dismiss is granted, and the case is dismissed without prejudice.

IT IS THEREFORE, ORDERED AND ADJUDGED that Defendant's Motion [20] to Dismiss is GRANTED and this matter is DISMISSED WITHOUT PREJUDICE.

THIS, the 15th day of July, 2022.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE